

SNIFFER #2 PARTNERSHIP

IBLA 83-983

Decided October 24, 1983

Appeal from decision of Nevada State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. N MC 282700 through N MC 282703.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Recordation

Under sec. 314(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(b) (1976), and 43 U.S.C. § 1744(b) (1976), and 43 CFR 3833.1-2(b), the owners of unpatented lode or placer mining claims located after Oct. 21, 1976, must file in the proper BLM office within 90 days after the location of such claims, a copy of the official record of the notice or certificate of location. Failure to file such instruments timely is deemed conclusively to constitute an abandonment of the mining claims by the owners, and they are properly declared void.

APPEARANCES: Marc Druckman, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Sniffer #2 Partnership appeals the Nevada State Office, Bureau of Land Management (BLM), decision of August 15, 1983, which declared the unpatented S2/ -A1 through S2/ -A4 lode mining claims, N MC 282700 through N MC 282703, abandoned and void because the notices of location were not filed with BLM within 90 days after location, as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976). The claims were located May 6, 1983, and were recorded in Elko County, Nevada, July 27, 1983. Copies of the location notices were received by BLM August 11, 1983, after the 90-day period prescribed by FLPMA had expired.

Appellant states it was unaware of the 90-day limit for filing location notices with BLM. It felt that the notices should be recorded in the county

first, and then with BLM. Delay in receiving the recorded copies back from the county caused the delay in sending them to BLM.

[1] Section 314(b) of FLPMA requires the owner of an unpatented mining claim located after October 21, 1976, to file a copy of the official record of the notice of location in the proper BLM office within 90 days after the date of location, section 314(c) provides that failure to file the instruments required by section 314(b) within the prescribed time limits shall be deemed conclusively to constitute an abandonment of the claim by the owner. The requirements of the statute and the consequences for noncompliance are restated in the regulations at 43 CFR 3833.1-2(b) and 3833.4(a). Herbert Cilch, 73 IBLA 171 (1983); Thomas C. Hall, 72 IBLA 319 (1983). This Board has no authority to waive failure to comply with the statute. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

James L. Burski
Administrative Judge

